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UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

DAVID LEE PHILLIPS,

Plaintiff,

vs.

CASE NO. 2:09-CV-00826-KJD-LRL

LAS VEGAS METROPOLITAN POLICE
DEPARTMENT, A Political Subdivision
of the State of Nevada; POLICE OFFICERS
Sgt. Raymond George Reyes #4346,
Officer Conn, Officer Fonbwzma¹ a.k.a.
Officer #6834 individually and as a Police
Officer, JOHN DOES I-IV, inclusive,

Defendants.

JOINT MOTION TO REOPEN DISCOVERY AND OTHER DEADLINES
(Fourth Request)

Pursuant to LR 6-1 and LR 26-4, the parties, by and through their respective counsel of record, hereby request that this Court extend the current discovery deadline of Wednesday, December 8, 2010, in the above-captioned matter for an additional 120 days, up to and including April 7, 2011. In addition, the parties request that dispositive motions and pretrial order deadlines be extended as outlined herein. In support of this Motion, the parties state as follows:

DISCOVERY COMPLETED TO DATE

On July 10, 2009, Defendants provided their Initial Disclosure.

On August 21, 2009, Plaintiff provided his Initial Disclosure.

¹The correct spelling of this officer's name is Fonbuena.

1 On August 26, 2009, Defendants provided their First Supplement.

2 On September 19, 2009, Defendants provided their Second Supplement.

3 On December 14, 2009, Defendants propounded Requests for Production, Requests for
4 Admissions, and Interrogatories.

5 On January 7, 2010, Plaintiff propounded Interrogatories to all Defendants.

6 On January 19, 2010, Plaintiff responded to Defendants' Request for Admissions and
7 Interrogatory.

8 On February 24, 2010, Plaintiff responded to Defendants' Request for Production and to
9 Defendant Conn's Interrogatories.

10 On February 25, 2010 Defendant Conn responded to Plaintiff's Interrogatories.

11 On March 1, 2010 Defendant LVMPD responded to Plaintiff's Interrogatories.

12 On March 4, 2010 Defendant Reyes responded to Plaintiff's Interrogatories.

13 On March 6, 2010 Defendant Fonbuena responded to Plaintiff's Interrogatories.

14 On March 24, 2010 Defendants produced their Third 26.1 Supplement.

15 On March 28, 2010 Plaintiff responded to Defendant Reyes' Interrogatories.

16 On April 6, 2010 Plaintiff responded to Defendant LVMPD's Interrogatories.

17 On April 9, 2010 Plaintiff produced his disclosure of expert witness.

18 On May 10, 2010 Defendants produced their disclosure of expert witness.

19 On May 18, 2010 Plaintiff produced his supplemental disclosure of expert witnesses.

20 On May 18, 2010 Plaintiff produced his supplemental responses to Defendants' Requests
21 for Admissions and Interrogatory.

22 On May 18, 2010 Plaintiff produced his supplemental responses to Defendant Conns'
23 Interrogatories.

24 On May 28, 2010 Plaintiff produced his First 26.1 Supplement.

25 On May 28, 2010 Plaintiff produced his supplemental responses to Defendants' Request
26 for Production of Documents.

27 On May 28, 2010 Plaintiff produced his supplemental responses to Defendants Reyes'
28 Interrogatories.

1 On May 28, 2010 Plaintiff produced his supplemental responses to Defendant LVMPD's
2 Interrogatories.

3 On May 28, 2010 Defendants noticed the deposition of David Lee Phillips.

4 On June 16, 2010 Defendants noticed the Custodian of Records depositions of UMC,
5 Nevada Orthopedic, LV Urology and Southwest Dermatology.

6 On July 19, 2010 Plaintiff noticed the depositions of Sgt. Reyes, Officer Conn and
7 Officer Fonbuena.

8 On July 20, 2010 Defendants noticed the deposition of Juanita Goode.

9 On July 26, 2010 Defendants produced their Fourth 26.1 Supplement.

10 On July 27, 2010 Defendants noticed the deposition of D.P. VanBlaircom

11 On August 3, 2010 Defendants noticed the Custodian of Records depositions of West
12 Valley Imaging, Valley Hospital, Matt Smith Physical Therapy, Sonoran Medical Imaging, Dr.
13 Thorp, Surgical Center at Tenaya.

14 On August 9, 2010 Defendants produced their Fifth 26.1 Supplement.

15 On August 17, 2010 Defendants produced their Sixth 26.1 Supplement.

16 On August 18, 2010 Plaintiff produced his Second 26.1 Supplement.

17 On August 19, 2010 Defendants produced their Seventh 26.1 Supplement.

18 On September 3, 2010 Plaintiff produced his Third 26.1 Supplement.

19 On September 14, 2010 Defendants produced their Eighth 26.1 Supplement.

20 On September 15, 2010 Plaintiff produced his Fourth 26.1 Supplement.

21 On September 30, 2010 Defendants noticed the depositions of Jacqueline Phillips, Louis
22 Poole, Tom Stafford and Sgt. Duane Tate.

23 On November 17, 2010 Plaintiff produced his Fifth 26.1 Supplement.

24 On November 19, 2010 Plaintiff produced his Sixth 26.1 Supplement.

25 On November 30, 2010 Defendants produced their First Supplement to Designation of
26 Expert Witness.

27 On December 7, 2010 Plaintiff produced his Fifth 26.1 Supplement.

28 On December 7, 2010 Plaintiff produced his Seventh 26.1 Supplement.

1 On December 8, 2010 Defendants produced their Ninth 26.1 Supplement.

2 **DISCOVERY REMAINING**

3 The Defendants need to depose the newly identified witnesses. Plaintiff will need to
4 depose Defendants expert witness. Plaintiff needs to propound further written discovery, request
5 and disclose additional documents, and depose additional witnesses.

6 **WHY SUCH REMAINING DISCOVERY HAS NOT BEEN COMPLETED**

7 Defendants counsel has been heavily involved in expert depositions in the matter of
8 Pauluk v. CCHD, Case No. 2:07-CV-1681-PMP-LRL. Defendants counsel has just recently been
9 brought in to help assist in the obtaining of records and taking depositions in the matter of
10 Cooper v. Sam's Town, A590099, which is scheduled to begin trial on March 7, 2011.

11 Defendants counsel has further been actively involved in finishing up discovery and the drafting
12 of dispositive motions in the matter of Pinkney v. SNHD, Case No. 2:08-CV-1257-RLH-GWF.

13 Plaintiff's counsel has been involved in numerous depositions for the matter Lester v.
14 LVMPD, et al., Case No. 2:10-cv-00531-RCJ-PAL as the request for extension of discovery in
15 this matter was rejected. Additionally, depositions in the Phillips matter were just taken on
16 November 23, 2010, which has prompted for further discovery.

17 Furthermore, Mr. Potter has a family wedding in mid-December, Mr. Funk will be
18 undergoing surgery on December 18 and may require anywhere from one week to one month for
19 recovery, which leaves only Mr. Potter to complete all court appearances, depositions, Ninth
20 Circuit appeal briefs, and other deadlines through the end of the year and possibly longer. In
21 January, Plaintiff's counsel has four (4) mandatory settlement conferences to prepare for as well
22 as various depositions and a firm trial setting in the matter McDonald v. Anderson, Case No.
23 01A439126 for January 25, 2010. Also, Plaintiff's counsel's office is closed on December 23
24 and December 24 to observe the Christmas holiday.

25 Based upon the foregoing, the parties have stipulated to the following proposed schedule
26 for the remaining discovery by one hundred and twenty (120) days:

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<u>SCHEDULED EVENT</u>	<u>CURRENT DEADLINE</u>	<u>PROPOSED DEADLINE</u>
Extension of Discovery Deadline		Friday, March 18, 2011
Discovery Cut-off	Wednesday, December 8, 2010	Thursday, April 7, 2011
Dispositive Motions	Friday, January 7, 2011	Monday, May 9, 2011 <i>or at least thirty (30) days after the close of discovery</i>
Joint Pretrial Order	Monday, February 7, 2011	Wednesday, June 8, 2011 <i>thirty (30) days after the date set for filing dispositive motions or at least thirty (30) days after the decision of last dispositive motions</i>

APPROVED AS TO FORM AND CONTENT on the 9th day of December, 2010.

POTTER LAW OFFICES

OLSON, CANNON, GORMLEY &
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ORDER

IT IS SO ORDERED.

Dated this 16th day of December, 2010.

U.S. MAGISTRATE JUDGE

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